Regn IV of 05

File No. 24-04
Serial Nos. 1-4

1905.

GENERAL AND REVENUE SECRETARIAT.

(VI Legislation)

Part A: Manuscript
for August 1905

29

Serial Nos. 1-4

Addition of a clause to the Military Regulation providing for the attendance of civil witnesses

(Regn IV of 1905)

G. R S. 11] 1904.

GENERAL AND REVENUE SECRETARIAT

Legislative

NOTES.

File. No 24

FILE HEADING.

Addition of a clause to the Military Regulation providing for the attendance of civil witnesses.

From

The Military Secretary to Government.

No. 2453/7M-369/17 Dated 8/3/05 Received 8/3/05

Diary No. 1887 Enclos. one Spare Copies. Serial No. 1

BRIEF ABSTRACT OF LETTER.

Requests that Government in the Legislative Department may be moved to sanction the addition of a clause to the Mysore Military Regulation empowering Court-martial to summon & enforce attendance before them of civil witnesses.

NOTES AND ORDERS

1. Submit for orders [Civil matter]

7/3/05 S.N 13/3/05 J.K.B S.N

2 What is the procedure in the British enactment on the subject. Please let me see. Sec 13. 3 8.5

H.S. Maconochie

H. Secy 16/3/05 Legr

NOTES—First sheet.

R.S. 1[9]
General and Revenu
Secretariat.

File No. 24 of 190[4]

Serial No.

3 The procedure to be observed in summoning witnesses before a Court martial is contained in Art 122 of the Indian Articles of War, Act V of 1869.

14/3/05 SN 14/3/05 DKS SN 14/3/05

4. In the Indian Articles, provision is made for the summoning of witnesses and the production of documents (Vide article 122). Col Jones makes no reference to the production of documents. He only wants power to the Queen to Courts Martial to enforce summons and the attendance of witnesses residing outside the Military Lines. If this is all he wants, the following clauses may be inserted after section 53 but before section 54 of our Military Regulation.

(1) The Chief Commandant may by summons under his hand, require the attendance before the Court, at a time and place to be mentioned in the summons, of any person to give evidence.

(2) In the case of a person amenable to Military authority, the summons shall be sent to his superior Officer and such officer

and return the summons to the Chief Commandant. shall cause it to be served accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the Court of such Magistrate.

5. If these clauses are adopted, the provision relating to contempt of Court contained in article 12 of the Act will also be passed with the required modifications, section 40 of our Regulation prohibiting a witness leaving the Station except in case of severe sickness or public emergency. I am not sure if this prohibition should apply to witnesses who are not amenable to Military control. Col Jones may be asked to consider whether it is not desirable to adopt the whole of the articles 122, 123 and 124 with the necessary changes.

Of the Indian Articles of War

M. Shamu Rao 16. 3. '05.

6. May it not facilitate matters if provision were also made for enforcing the production of documents?

Subject to the decision of the Chief Commissioner

M. Venkata Viswanadham 24. 3. 1905

G.R.S. 12j

General and Revenue Secretariat.

File No. 24 of 1904-05

Serial No. 2d agree

When we are about, the best thing for us to do would be to adopt articles 122, 123 & 124 of the Indian Articles of War with [illegible] modifications [illegible] United Kingdom local requirements. A draft Regulation may be prepared accordingly and sent to officers to the Military Department for favour of opinion

5466/52 13.7.05 8. This [illegible] 18/3/06

22/13 22.III.05

[illegible] 24.3.1905

109

Recd 27.3.05 Submitted draft [illegible]

29/3/06

Recd 29.3.05 Draft Regn. submitted

30/3/05 This [illegible]

30/3/05

U.R. 17

3.4.05

Forwarded to the Military Department for favour of opinion 1.4.1905

[illegible]

Secretary

Note—[illegible]

4/1/05 MGCPB—20,000—1.11.04

G.R.S. 12]

General and Revenue Secretariat.

File No. 24 of 1904-05

Serial No.

13 Seen. vide Judicial Rules 122-3-4 which modifies which is exactly what is wanted. Shd also be provision to enable the C.M. to obtain documents if useful.

14 Am not a legal expert and am not sure about. Have marked A in pencil ... which necessary for a statute enacted to set forth that its rules shall not affect the Indian Oaths Act which was as above and some such law. Come in

15 As far as the powers given to summon witnesses & documents he shd seem expedient

3-4-05 R. Fanshawe

See note below 14/4

Put up (Flag A) Submitted 11-4-05 Put up Cr. P. Code 11/4/05 5

Subd 11/4

17. The passage referred to by Col Jones is word for word nearly the same as in S. 94(3) of our Cr. P. Code. The reference to the "Indian Evidence Act, "45

NOTE—Contn. she

Leg. & Jud. Dept.

Submitted to His Highness.

The amendment of the Mysore Military Regulation has become necessary, as it at present contains no provision to enforce the attendance of civil witnesses, or the production of documents for the purposes of a Court Martial inquiry. The additions now proposed are on the lines of the provisions contained in the Indian Articles of War. A draft letter to the Residency for obtaining the sanction of the Government of India is enclosed. Both the draft Regulation and the letter may be approved.

6.5.05

Record of Case submitted for the orders of His Highness the Maharaja.

Subject.

Draft of a Regulation further to amend the Mysore Military Regulation of 1899 with a draft to Residency.

Order.

Approved

~~KRW~~

16/5/05

10.5.05

Above the draft after once more Secretary, etc. D;

13.5.1905

I have made some slight alterations in the draft, which please issue above my signature.

G.R.S. 12]

General and Revenue Secretariat.

File No. [illegible] of 190[illegible]

Serial No. 1

To the 1st Asst Resident No. 1245 of 15/5/05

Forwards a draft regulation further amending the Military Regulation I of 1888, so as to provide for the enforcement of witness or the production of documents before Court-martial & requests that the sanction of the Govt of India may be obtained to the proposed measure

From the 1st Asst to the Sr Asst Resident No. 4143 of the 29th July 1905.

States that the draft regulation is sanctioned by the Govt of India, provided that the Governor in Council retains until the power & authority which vest in them by virtue of Act 15 of the Government of India

[illegible] This sanction has now to be obtained for the promulgation of the Regn.

Put up clean copy of Regn, which should invariably accompany

Submitted

2/8/05 File ruled with a clean copy

Dear

Submitted to the Dewan

Sd. [illegible]

Submitted to the Secretary

G. The sanction is required

With Dear and returned with thanks

171/2-8-05.

NOTE—Contn. sheet

8000/8/1x

12

Leg. to Vienna

Submitted to His Highness.

Sanction may be accorded
to the Resolution
further Warrant in
Military Report which
has received the approval
of the Foreign Office

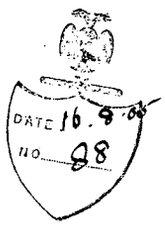
7. VIII. 05

Leg I in you

Record of Case submitted for the orders of His Highness the Maharaja.

Subject.

Sanction for promulgating a Regulation further to amend the Mysore Military Regulation of 1899.



Order.

31. Sanctioned

~~KRW~~

16/8/05 32. Draft further amended

4. VIII. 05

To Branch III

A.D.C. 17/8/05

Order no of Secy, & submit draft to Council, D.G

17/8/05

Leg

11

[H.R.S. 12]

General and Revenue Secretariat.

Leg File No. 24 of 1905

Serial No.	
3	Docket of the Compiler, adding promulgation of the Regulation ordered 34 forms at once. 18/8/05 18/8/05
4	To the Compiler, Mysore Gazette, No. 2532 Leg of the 25th August 1905
	Orders that the Regulation be promulgated
	To the Military Asst to Sec. to Govt. No. 1538/Legn.-4 dated 25th August 1905
	Forwards copy of the above for information

£1884

Legis

Leg 2L No 2 of 1899

MILITARY ASSISTANT'S OFFICE,

No. 2950/Em: 1

No. 367 97-98

DATED BANGALORE, 8th March 1905.

Letter No: 2950 - 1 No 367-97-98, dated 8th March 1905

From

LIEUT. COLONEL R. G. JONES, I.A

The MILITARY ASSISTANT TO THE GOVT. OF MYSORE

To

B.K. Venkatavaradaiengar, Esqr.,

The Secretary to the Govt of Mysore,

Genl & Rev Departments.

Sir,

I have the honor to inform you that/the Mysore Milit Regulation of 1899 (copy herewith forwarded for ready referen does not contain any provision empowering Courts Martial to sum-mon or cause the attendance of witnesses residing outside the Military Lines to give evidence in cases tried by such Cou and to request that Government in the Legislative Department may be moved to sanction the addition of a clause to the above Regulation providing for the attendance of civil witnesses.

I have the honor to be,

Sir,

Your most obedient Servant,

R G Jones Lieut.Col.

Military Assistant.

No

Letter Post No. 7 dt 15.5.05.

Encl

Sgd Hon'ble V.K. Krishnaswamy Iyer Esq

From the Secretary to Govt. of Madras
Law Department

To the Hon'ble the Advocate General
to the Government

S No 2

I am directed to forward herewith a draft Regulation to amend the Madras Military Regulation No II of 1899. This Regulation as it stands at present contains no provision for enforcing the attendance of civil witnesses or for the production of documents required for the purposes of Courts-martial. The draft Regulation supplies these defects

By
and the Amendments
are on the lines of the
provisions Contained
in the Indian articles
of War. I am to request
that the Honble the
Resident may be kindly
moved to obtain ~~a~~ the
the sanction of the
Government of India
to the passing of
the proposed
Regulation.

Compare Articles 122, 123
and 124 - A

I have &c

PC
13.5.05

Secretary

Hrs.
5.5.05

Copied 15/5/05
Examined by SN 15/5/05

Enclosure 1 (one)
SN
16/5/05

Reg 2 of 04-3

R. P. B.—6-1905.—500

J 252

Letter No. 4143, dated 27-7-05.

FROM

~~R. C. H. MOSS. KING, Esq., I. C. S.,~~

Pol no 1324 28.7.05 Rec'd FIRST ASSISTANT TO THE RESIDENT IN MYSORE,

The Dewan of Mysore

Dated Bangalore, 27th July 1905.

11 Sept. C) 27-7-05

SIR,

Sir 3

I am directed to acknowledge the receipt of Mr. Venkatavaradiengar's letter Pol No.945, dated ~~the 15th May~~ 1905, forwarding a draft Regulation to further amend the Mysore Military Regulation, II of 1899.

2. The draft Regulation is sanctioned by the Government of India provided that the Governor General in Council retains over it the power and authority which vests in the Governor General in Council by virtue of Article 19 of the Instrument of Transfer, dated the 1st March 1881.

I have the honour to be,

Your most obedient servant

First Assistant Resident.

GOVERNMENT OF MYSORE.
LEGISLATIVE DEPARTMENT.

~~Read the following papers :—~~

SIN. 1
dy 2 Nos in Cyn

Order

No. 3597
LEGIS. 24-4 dated 25/8/ 1905

~~ORDER THEREON~~ Ordered. That the
~~Draft~~ Regulation further to amend
the Mysore Military Regulation, 1899,

which received the assent of His Highness
the Maharaja on the 10th day
of August 1905, be promulgated.

11/8/1905

Secy. to Govt., Gen. & Rev. Depts.

To The Compiler, *Mysore Gazette*, with a copy of the Kannada translation
Regulation No. IV of 1905, for publication
in three successive issues of the Gazette and for
supply of 50 spare copies to this office, & 20
Spare copies to the Military Asst to Govt.

MGCPB—1-3—100.

Cy to the Military Assistant to Govt for information

(Draft Regulation.

Regulation No. IV of 1905.

(Passed on the 10th day of August 1905.)

A Regulation further to amend the Mysore Military Regulation, 1899

Preamble

Whereas it is expedient further to amend the Mysore Military Regulation, 1899, as amended by Regulations V of 1900, IV of 1901 and I of 1905; His Highness the Maharaja is pleased to enact as follows:-

Addition of paragraphs 53A to 53C to the Rules for the punishment of Crime.

After paragraph 53 of the Rules for the punishment of crime in the Mysore Imperial Service Cavalry and Transport, the following paragraphs shall be inserted, namely:-

Summoning witnesses and production of documents.

"53A. (1) The President of a Court-Martial may, by summons under his hand, require the attendance before the Court at a time and place to be mentioned in the summons of any person either to give evidence or to produce any document or other thing

(2) In the case of a witness amenable to military authority the summons shall be sent to his superior officer, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the Court of such Magistrate.

"(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

(5) Nothing in this paragraph shall be deemed to affect the Indian Evidence Act, 1872, section

123 and 124, or to apply to any letter, post card, telegram or other document in the custody of the postal or telegraph authorities.

"(6) If any document in such custody is in the opinion of any District Magistrate, the Chief Court or any Court of Session wanted for the purpose of any court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

"(7) If any such document is, in the opinion of any other Magistrate or of any District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document pending the orders of any such District Magistrate or Court.

Contempts of Court.

"53B. (1) Any witness duly summoned, and any person who commits any contempt of Court in the presence of a court-martial, or any offence described in clauses (37), (38) and (39) of paragraph 2 shall, if subject to these Rules, be proceeded against as the Court may direct

"(2) If any such witness or person is not so subject, the President of the Court-martial may certify the offence under his hand to the Court of any Magistrate within the local limits of whose jurisdiction it was committed, and the Magistrate may thereupon take cognizance of the case, and, after hearing anything which the accused may desire to say, dispose of it as if the offence had been committed in a proceeding in the Court of such Magistrate.

Privileges of persons attending Court-martial

"53C. (1). No President or member of a court-martial, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or re-

turning from, a courtemartial, be liable to arrest under civil or revenue process.

"(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

Copies sent 16/5/05.
Examined. SW 15/5/05